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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
MARLON DANIEL SMITH,)
)
Defendant.)

No. CR 08-117 VRW

~~PROPOSED~~ ORDER EXCLUDING
TIME FROM MARCH 5, 2009 THROUGH
APRIL 2, 2009 AND CHANGING
STATUS CONFERENCE FROM MARCH
19, 2009 TO APRIL 2, 2009

The defendant, MARLON DANIEL SMITH, represented by GILBERT EISENBERG, and the government, represented by TAREK J. HELOU, Assistant United States Attorney, were scheduled to appear before the Court on March 5, 2009 for a status hearing. The Court then changed the date for that appearance to March 19, 2009. Defense counsel is unavailable on March 19, 2009 and requests a continuance of the matter to April 2, 2009.

Counsel for both parties request that time be excluded under the Speedy Trial Act from March 5, 2009 through April 2, 2009 based on continuity of counsel because defense counsel will be unavailable during the Court's regularly scheduled calendar. The government has no objection to excluding time.

1 Based upon the representation of counsel and for good cause shown, the Court vacates
2 the status conference scheduled on March 19, 2009, and sets a status conference on April 2,
3 2009. Additionally, the Court finds that failing to exclude the time from March 5, 2009 through
4 April 2, 2009 would unreasonably deny the defendant continuity of counsel, taking into account
5 the exercise of due diligence. 18 U.S.C. § 3161(h)(8)(B)(iv). The Court further finds that the
6 ends of justice served by excluding the time from March 5, 2009 through April 2, 2009 from
7 computation under the Speedy Trial Act outweigh the best interests of the public and the
8 defendant in a speedy trial.

9 Therefore, IT IS HEREBY ORDERED that the time from March 5, 2009 through April
10 2, 2009 shall be excluded from computation under the Speedy Trial Act. 18 U.S.C. §
11 3161(h)(8)(A) and (B)(iv).

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14 DATED: 3/12/2009

